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To: Senates Committee on Government Operations
and on Labor, Culture and the Arts

From: Cheryl Kakazu Park, Director

Date: March 27, 2019, 2:30 p.m.
State Capitol, Conference Room 224

Re: Testimony on S.C.R. No. 173 and H.R. No. 140
Requesting the Department of Accounting and General Services to
Establish a Task Force to Conduct a Study Concerning the Current
and Future Needs of the State Archives.

Thank you for the opportunity to submit testimony on this bill, which would request the Department of Accounting and General Services to convene a task force to conduct a study of the current and future needs of the State Archives. The Office of Information Practices (OIP) takes no position on the proposed Task Force, but **is recommending deletion of the clause stating the group is exempt from chapter 92, part I of which is the Sunshine Law. The proposed exemption is unnecessary and would in any case be ineffective.**

OIP has previously held that a group created by resolution is generally not a “board” subject to the Sunshine Law. To be a “board,” a group must be “created by constitution, statute, rule, or executive order,” and creation by nonbinding resolution does not satisfy that requirement as it is not equivalent to creation by statute. OIP Op. Ltr. No. 08-02 at 3-7. Thus, it is unlikely that the group called for by this resolution would be subject to the Sunshine Law in the first place.

Even if the group were subject to the Sunshine Law, the provision exempting it from the Sunshine Law and the rest of chapter 92, HRS, would be ineffective because a resolution, which is not legally binding, would not override statutory requirements such as those set out in the Sunshine Law.

Thus, the proposed Sunshine Law exemption is likely unnecessary, and would be ineffective. OIP recommends that to avoid confusion, this Committee should amend the resolution by deleting the proposed exemption (at bill page 3 lines 25-26).



STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

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WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEES ON GOVERNMENT OPERATIONS/
LABOR, CULTURE AND THE ARTS

MARCH 27, 2019, 2:30 P.M.
CONFERENCE ROOM 224, STATE CAPITOL

S.C.R. 173/S.R. 140
REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO
ESTABLISH A TASK FORCE TO CONDUCT A STUDY CONCERNING THE CURRENT
AND FUTURE NEEDS OF THE STATE ARCHIVES

Chairs Thielen and Taniguchi, Vice Chairs Inouye and Ihara, and Members of the Committees, thank you for the opportunity to testify on S.C.R. 173/S.R. 140 which requests the Department of Accounting and General Services (DAGS) to establish a Task Force to assess the current and future needs of the Hawaii State Archives. The Department of Accounting and General Services (DAGS) supports the intent of S.C.R. 173/S.R. 140 and offers the following comments:

1. The current archives facility was designed 70 years ago. Based on current archival practice and public access needs, this facility is severely outdated in form and function.
2. The State Archives holds over 1000 artifacts in the Public Trust with no provisions to display any. These artifacts that are among the most important objects in Hawaii's rich and diverse history, and includes: The Great Mahele, Royal Hawaiian Seals, flags from four of Hawaii's Governments, Moon Rocks from Apollo 11 and 17, pens that signed the notable events, and numerous treaties and documents signed by Foreign Heads of State.

3. The Public Research Room is limited in the number of patrons it can accommodate, diminishing its utility to organized classroom activities at the High School and University levels, while the electrical grid within the facility cannot accommodate the preservation of the millions of electronic records being created today.
4. The facility, which is capable of storing approximately 14,000 cu. ft. of records, is at 93% capacity. At the current rate of growth of 200 cu ft of records per year, the State Archives will reach capacity in less than six years; after which time it will no longer be able to execute on its Legislative Mandate to collect, arrange, describe and make accessible the Public Archives of the State of Hawaii.
5. These limits on space severally impinges upon the ability of the State Archives to conduct educational and outreach efforts to the public and school groups while simultaneously serving patrons conducting archival research.

Thank you for the opportunity to testify.